

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**RANDAL E. HANNA**  
Claimant

VS.

**HAY & FORAGE INDUSTRIES**  
Respondent  
Self-Insured

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Docket No. 267,336

**ORDER**

Claimant appeals the February 7, 2002 Final Order of Assistant Director Kenneth J. Hursh. Claimant and his attorney had requested that Administrative Law Judge Bruce E. Moore be recused from all cases wherein Attorney Riedmiller represented clients before Administrative Law Judge Moore. In his Final Order, the Assistant Director found that the facts presented would not lead a reasonable person to believe that Mr. Riedmiller or claimant would receive an unfair hearing due to bias or prejudice by Administrative Law Judge Moore. For those reasons, claimant's Motion To Recuse Administrative Law Judge Bruce E. Moore was denied. The Director of Workers Compensation appointed Stacy Parkinson of Olathe, Kansas, to serve in place of Board Member David Shufelt, who recused himself from this claim.

**APPEARANCES**

Claimant appeared by his attorney, Roger A. Riedmiller of Wichita, Kansas. Respondent, a qualified self-insured, appeared by their attorney, Larry Shoaf of Wichita, Kansas.

**RECORD AND STIPULATIONS**

The Appeals Board (Board) has considered the record and adopts the stipulations contained in the Final Order of the Assistant Director.

**ISSUES**

Did the Assistant Director err in denying claimant's Motion To Recuse Administrative Law Judge Moore from all matters before him wherein Attorney Riedmiller represents a party to the workers' compensation litigation?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the evidentiary file contained herein, the Board finds that this matter should be dismissed as the issue regarding whether the Administrative Law Judge should recuse himself from these matters is not ripe for consideration.

Claimant suffered accidental injury while working for respondent on November 10, 1999, when, while bending, he suffered an injury to his back. Claimant was treated and rated by Anthony G.A. Pollock, M.D., treated by William Shapiro, M.D., and rated by P. Brent Koprivica, M.D. On April 25, 2002, after the parties entered into an agreed Award, that Award, containing the stipulations of the parties, was filed with the Kansas Division of Workers Compensation, resolving all disputed issues. The agreed Award did allow for future medical expense upon proper application to and approval by the Workers Compensation Director, and further allowed the award to be subject to review and modification pursuant to K.S.A. 44-528 (Furse 1993). However, no application for additional medical expense and no review and modification application pursuant to K.S.A. 44-528 (Furse 1993) have been filed in this matter.

Claimant's attorney, Mr. Riedmiller, pursued his request that Administrative Law Judge Moore remove himself from this case for alleged bias or prejudice. After Administrative Law Judge Moore denied claimant's motion, the matter was referred by the Director to Assistant Director Kenneth J. Hursh, who denied claimant's motion in his Final Order of February 7, 2002.

The bias and prejudice alleged against Administrative Law Judge Moore will only potentially affect claimant or his attorney, Mr. Riedmiller, if a controversy is presented to Administrative Law Judge Moore for determination. At this point in this matter, there is no controversy. The parties have entered into an agreed Award and, unless and until some dispute arises, there is only the possibility of a future controversy between Attorney Riedmiller and/or his client and Administrative Law Judge Moore.

An issue is not ripe for adjudication when there is only the possibility of a future controversy between the parties. Leavenworth Plaza Assocs., L.P. v. L.A.G. Enterprises, 28 Kan. App. 2d 269, 16 P.3d 314 (2000); Stone v. Kansas State High School Activities Ass'n., Inc., 13 Kan. App. 2d 71, Syl. ¶ 8, 761 P.2d 1255 (1988).

Here, there is no present controversy between claimant and/or his attorney and Administrative Law Judge Moore, but only the possibility of a future controversy. Therefore, the issue regarding the recusal of Administrative Law Judge Moore is not ripe and this matter is dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Final Order of Assistant Director Kenneth J. Hursh dated February 7, 2002, remains in full force and effect and the appeal of claimant and his attorney in the above matter should be, and is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 2002.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c:     Roger A. Riedmiller, Attorney for Claimant  
       Larry Shoaf, Attorney for Respondent  
       Bruce E. Moore, Administrative Law Judge  
       Kenneth J. Hursh, Assistant Director  
       Philip S. Harness, Director